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Lawmakers eye 'predatory' loans

Lending practices still face scrutiny

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Eileen Ledford says she learned too late that her new home loan was based on a lie.

The mortgage broker put her age at 67. And he claimed she earned \$11,000 a month - or \$132,000 a year - from a home quilting business she had owned for 22 years.

"I'm 81," she said, adding that she never owned a quilting company, never worked for one and never told a loan agent she did. "I don't even know how to quilt."

What the imaginary quilting business did produce was a loan that she and her husband, Linn, who is 86 and suffers from congestive heart failure, cannot possibly afford.

Three times they have signed with high-interest lenders that refinanced their Denver home, gave them some cash and escalated their debts. The latest is Fieldstone Mortgage Co., which is charging them \$3,290 a month - \$859 more than their combined monthly retirement income.

Last month they couldn't make the payment on a house they have owned for 31 years.

Ryan Reilly, the broker who admits putting the nonexistent quilting business on the loan application, shared \$15,600 in commissions with a company that referred the Ledfords to him a year ago. He said he was just trying to help them get the money they needed for credit card bills and home improvements.

But in hindsight, "I really wish I'd never done the loan," he told The Denver Post. "It didn't really help them in the long run."

At the state Capitol this week, Colorado legislators will debate what to do about such loans.

The Senate is expected to vote on a bill sponsored by Sen. Doug Linkhart to combat "abusive home loan practices." It would limit loan fees and ban several "predatory" practices such as prepayment penalties and balloon payments on high-cost home loans.

Linkhart, a Denver Democrat, introduced the bill at the behest of AARP, ACORN and other consumer groups. He expects it to pass the Senate but foresees trouble in the Republican-controlled House. Lining up against his bill are lenders and brokers who

contend it would undermine an already weakened housing market and deny home loans to people with shaky credit.

The Colorado Association of Mortgage Brokers, for one, is campaigning instead to license brokers and create a mortgage board where homeowners could take complaints. But its proposal faces opposition from the Colorado Mortgage Lenders Association, which argues that brokers should not shoulder new regulations and higher costs just because a few people are writing bad loans.

In the House, Rep. Rosemary Marshall, D-Denver, is preparing a predatory-lending bill with fewer restrictions than Linkhart proposed. While she supports his bill, "my objective is to get something done this year," she said.

The inspiration for this flurry of proposals is the fast-growing, aggressively marketed subprime lending industry. The federal government now tracks 188 companies specializing in subprime loans that broaden access to home mortgages, but at a price that typically includes higher interest rates and fees, and other costly requirements.

Elderly and minority homeowners hold a disproportionate share of these higher-cost loans.

"No good resource' for help

Using federal home loan data, The Post reported last year that black homeowners in Denver were 3 1/2 times as likely as white homeowners to borrow from subprime lenders, and Hispanics 2 1/2 times as likely. The data also showed that black homeowners earning more than \$70,000 a year were more likely to get subprime loans than white homeowners earning less than \$30,000 a year, a pattern that reflected national trends.

When a high-cost loan appears destined to drive the borrower to default, advocates for Colorado homeowners say there are few places to turn for help.

Hans Fedge, a mortgage broker assisting Linn and Eileen Ledford, said he faces the same dilemma again and again. By the time homeowners seek help, they have lost much of their equity. They have no money for a lawyer. And state law enforcement agencies focus on patterns of fraudulent behavior, not problems with individual loans.

"There is really no good resource for the victims to get assisted right now," Fedge said.

Linn Ledford ran a Denver wholesale showroom and lived with his wife in a modest house that originally cost \$19,500. Thirty-one years later, their old neighborhood is being replaced by sandstone-hued luxury homes encircling the Cherry Creek shopping district.

The Ledfords expanded and refinanced their house over time, once to accommodate a grand piano that Linn played. But the series of subprime loans that took them down what he calls "the slippery slope" date to 1998, when he was 82.

He blames himself for their predicament, including the Fieldstone Mortgage loan he persuaded his wife to sign with her good credit. "It's just my stupidity and lack of understanding what could happen," he said. "I had no idea."

When Fedge examined the Ledfords' recent mortgage loan history, this is what he saw:

They refinanced in August 1998 with Advanta, a subprime lender that charged 10 percent interest. That loan raised their payments to \$2,051 a month, or 84 percent of their current monthly income.

In October 1999 they refinanced again with New Century Mortgage, another subprime lender. That lowered their interest rate to 9 percent. But their principal balance jumped \$43,000 to \$260,000, and their mortgage payments grew by \$30 a month.

In December 2000, they refinanced with Fieldstone, getting almost \$70,000 for credit card debts, home improvements and the growing gap between their expenses and income.

The new loan raised their mortgage debt \$100,000, to \$360,000. Its costs included \$15,600 in broker commissions and a \$9,234 prepayment penalty to terminate the New Century loan. Their interest rate climbed to 10.5 percent, and could go as high as 16.5 percent. Their mortgage payments immediately jumped \$1,200 a month, to \$3,290.

All based on a nonexistent home quilting business.

A copy of the loan application shows that Ryan Reilly listed Eileen Ledford as the 67-year-old owner of The American Quilt. Her supposed income: \$11,000 a month. The Ledfords' actual income: \$2,431 a month from Social Security and a small annuity.

Fedge called the broker's misstatements unconscionable.

Reilly does not deny putting information on the application form that he knew was incorrect. But he said he thought the Ledfords understood they could qualify only if he put down a "stated income," typically an undocumented business income that raises the borrower's interest rate. "I told them, 'You guys don't make enough money,' " he said.

Reilly also said he thought mortgage brokers commonly exaggerate business proceeds in stated-income loans - "I would say 90 percent of the time they are padded" - adding that he was 25 and inexperienced at the time and has not repeated the mistake since.

"I'm trying to get away from the mortgage industry" in Colorado, he said. "There's so much conflict in it, and there's not many regulations."

Couple felt uninformed

The Ledfords say they came away from a hurried loan closing without understanding how much their mortgage payments would increase or how Reilly had qualified them to borrow \$360,000.

They say they didn't know the application described Eileen as a quilting company owner until Fedge pointed it out. "That, I did not see when I signed the papers," she said. "I would have said, 'Whoa!' right away."

Their new loan has forced them to put their home up for sale. If they sell it, they face another prepayment penalty of almost \$15,000 to Fieldstone Mortgage.

Fedge and Jose Vasquez, a Colorado Legal Services lawyer, assert that Fieldstone bears some responsibility for approving a loan based on a suspiciously lucrative income from an elderly woman selling quilts from her house. They asked Fieldstone to trade a deed to the house for \$60,000, enough cash to let the Ledfords buy a condo.

"I know that Fieldstone is interested in finding a workable resolution," said Adam Bass, a lawyer for the company, adding that he can't comment on the details of the Ledford loan.

Meanwhile, the phone calls persist from solicitors hoping to refinance the Ledfords' home again.

"We get at least a dozen calls every other day," Eileen Ledford said. "It feels like hundreds."

LEGISLATION PENDING

The "abusive home loan practices" bill sponsored by Sen. Doug Linkhart, D-Denver, defines high-cost home loans and prohibits certain lending practices on such loans.

The "high-cost" definition is triggered if interest on a home loan exceeds the average yield on U.S. securities by 8 percent, or if points and fees paid by the borrower exceed 5 percent of the loan. Judging from recent yield rates, the trigger would apply to home loans that can exceed 12 percent interest.

On high-cost loans, the prohibited practices would include:

- * Many of the prepayment penalties for refinancing with a different lender.
- * A large "balloon" payment at the end of the loan.
- * A repayment schedule that causes the principal balance to increase over time.
- * A home refinancing that does not benefit the borrower.
- * An interest rate that increases in the event of a default.

Other bills on the horizon:

House Bill 1259, sponsored by Rep. Rosemary Marshall, D-Denver, limits but does not prohibit many of the lending practices identified in Linkhart's bill.

The Colorado Association of Mortgage Brokers is lining up sponsors for legislation to license its industry and create a mortgage complaint board. According to the association, Colorado is one of the few states that does not license or regulate loan originators.

Sen. Ed Perlmutter, D-Golden, plans to introduce a bill to protect homeowners who receive foreclosure notices from abuses by investors seeking to acquire their homes.

WHOM TO CALL

Questions about a home loan? Here are agencies you can call:

- * The U.S. Department of Housing and Urban Development certifies agencies to offer free counseling to homeowners. In the Denver area, those include Brothers Redevelopment, 303-202-6340, and the Adams County Housing Authority, 303-227-2075.
- * Colorado ACORN, 303-393-0773, tracks subprime lenders and "predatory" lending practices.
- * Colorado Legal Services, 303-837-1313, provides free legal help to homeowners who qualify by age or income.
- * The AARP (formerly known as the American Association of Retired Persons), 720-947-5302, has an Elderwatch program to help protect elderly homeowners from fraudulent loans.